



Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Jesse Helms
United States Senate
403 Dirksen Senate Office Building
Washington, D.C. 20510-330

Dear Senator Helms:

Thank you for the letter dated April 5, 1996, on behalf of your constituent, James K. Hawkins, regarding the Commission's policies for licensing 800 MHz Specialized Mobile Radio (SMR) systems. Mr. Hawkins expresses concern regarding the Commission's decision to redesignate the 800 MHz General Category Pool frequencies. Mr. Hawkins also expresses concern about the proposed use of competitive bidding procedures to award future licenses on these frequencies.

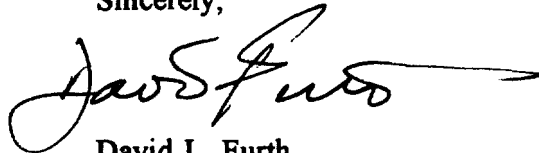
On December 15, 1995, the Commission issued a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144, which addressed the treatment of the General Category. In the First Report and Order, the Commission determined that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. In fact, our licensing records indicate that there are three times as many SMR licensees using General Category channels as any other type of Part 90 licensee. The Commission therefore concluded that the most efficient use of the General Category channels would be to redesignate them exclusively for SMR use. Thus, the First Report and Order provided that in the future, only SMR service providers will be eligible for new licenses in the General Category pool. Existing non SMR licensees on General Category channels will continue to operate under their current authorizations, however, and will be fully protected from interference by new SMR licensees. In addition, the Commission's decision specifies that SMR service providers are no longer eligible to apply for licenses on Business or Industrial/Land Transportation channels. As a result, we anticipate that the First Report and Order will make more spectrum available for licensees such as Mr. Hawkins, who are currently eligible, and will continue to be eligible, to apply in the Business and Industrial/Land Transportation categories. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. The Commission has concluded that auctioning of SMR licenses

satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. As noted above, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a long horizontal flourish extending to the right.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

United States Senate

WASHINGTON, DC 20510-3301

April 5, 1996

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Ms. Lauren J. Belzin
Acting Director, Office of Legislative Affairs
Federal Communications Commission
Room 808
1919 M Street, N.W.
Washington, DC 20554

Dear Ms. Blezin:

I recently received the enclosed letter from Mr. James K. Hawkins in which he expresses concern regarding the redesignation of 800 MHZ general category pool.

I appreciate any comments you have regarding the status of this case. If you have any questions, please contact Angela Sigmon, a member of my staff at (202)-224-6342. Thank you for your time and assistance.

Kindest regards.

Sincerely,



JESSE HELMS:pas
Enclosures

Author: james k hawkins <whitey@twave.com> at Internet
Date: 3/18/96 2:59 PM
Priority: Normal
TO: jesse helms at Helms-Dc
Subject: fcc pr docket no 93-144 redesignation of 800 mhz general cat

----- Message Contents -----

Received: by ccmil from mailhost.senate.gov
From @gateway.senate.gov:whitey@twave.com
X-Envelope-From: @gateway.senate.gov:whitey@twave.com
Received: from gateway.senate.gov by mailhost.senate.gov id aa08441;
18 Mar 96 14:56 EST
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(5.65v3.0/1.1.8.2/14Sep94-0947PM)
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Date: Sun, 17 Mar 1996 15:04:33 -0800
From: james k hawkins <whitey@twave.com>
Organization: western electronics
X-Mailer: Mozilla 2.0 (Win16; I)
Mime-Version: 1.0
To: jesse_helms@helms.senate.gov
Subject: fcc pr docket no 93-144 redesignation of 800 mhz general category pool
to commerical-only service
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Dear Senator Helms

These reclassifications of the 800 mhz are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes. We do not support - nor do we believe you should support - fcc regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. Section 309 (j) (6) (E) of the 1993 Budget Act directed the Fcc to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive. We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licenses. We are at a loss to understand federal government action that would expose our company to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy. Your interest, assistance and reply will be most appreciated.

James K Hawkins
Owner
Western Electronics Company
p o Box 346
Lenoir NC 28645

Commercial Wireless Division
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